UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/042,371	12/27/2001	Andrew C. Gilbert	CF-46	6761

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EXAMINER
ONYEZIA, CHUKS N

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on _10/04/2007_.
2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.
3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _13-18,21,22,24-26,28,29 and 43-47_ is/are pending in the application.
   4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5)☐ Claim(s) _____ is/are allowed.
6)☒ Claim(s) _13-18,21,22,24-26,28,29 and 43-47_ is/are rejected.
7)☐ Claim(s) _____ is/are objected to.
8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.
10)☒ The drawing(s) filed on _28 January 2003_ is/are: a)☒ accepted or b)☐ objected to by the Examiner.
   Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
   Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
   a)☐ All b)☐ Some * c)☐ None of:
      1.☐ Certified copies of the priority documents have been received.
      2.☐ Certified copies of the priority documents have been received in Application No. _____.
      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
   * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)
2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3)☒ Information Disclosure Statement(s) (PTO/SB/08)
   Paper No(s)/Mail Date _20071214_.

4)☐ Interview Summary (PTO-413)
   Paper No(s)/Mail Date. _____ .
5)☐ Notice of Informal Patent Application
6)☐ Other: _____.

DETAILED ACTION

Response to Amendment

1.   Applicants' amendment and arguments filed on February 6,

2007 and December 20, 2007 have been fully considered, and

discussed below. Claims 13-18, 21, 22, 24-26, 28-29, and 43-47

are pending and currently considered for examination. In light

of Applicant's arguments, the rejection of claims 13-18, 21, 22,

24-26, 28-29, and 43-47 are withdrawn and new grounds of

rejection are established as set forth in the next section

below.

Claim Rejections - 35 USC § 103

2.   The following is a quotation of 35 U.S.C. 103(a) which

forms the basis for all obviousness rejections set forth in this

Office action:

> (a) A patent may not be obtained though the invention is not identically
> disclosed or described as set forth in section 102 of this title, if the
> differences between the subject matter sought to be patented and the prior
> art are such that the subject matter as a whole would have been obvious at
> the time the invention was made to a person having ordinary skill in the
> art to which said subject matter pertains. Patentability shall not be
> negatived by the manner in which the invention was made.

3.   Claims 13-18,21, 22, 24,25,26, 28, 29, and 42-47 are

rejected under 35 U.S.C. 103(a) as being unpatentable over

Pritchard U.S. Patent Publication No. 2002/0046154 A1 (PTO-892

Reference A) in view of Wolfberg et al U.S. Patent Number.

5,214,579 (PTO-892 Reference B).

4.   As per claim 13 Pritchard teaches a method for creating and

trading a dynamic security comprising the steps of:

selecting a plurality of assets to form a dynamic

security, the plurality of assets chosen from two or more of the

categories(PRITCHARD Paragraph [0054], Selection of investment

instruments may occur next at step 204. The selection may be

based in whole or in part upon the risk/return preferences of an

investor):

fixed income securities, stocks, futures contracts, options

contracts, other securities, non-security financial instruments,

real property leases, and collectibles (PRITCHARD Paragraph

[0045], Investment instruments may be any stock, bond, security,

debt instrument, exchange traded fund (ETF), mutual fund,

currency, commodity, equity investment, futures investment,

dividend-paying investment, investment trust or any other

suitable asset or investment);

the dynamic security being a financial interest whose value

tracks the sum of the values of the assets forming the dynamic

security (PRITCHARD Paragraph [0025], The trust may be

redeemable for the elements or some settlement value at anytime

or from time to time. The elements may be disassembled, may each

be traded individually in their respective markets, may be kept

together and traded as is, or may be settled for some value);

trading the asset within the dynamic security based on the

comparing (PRITCHARD Paragraph [0025], the trust may be

redeemable for the elements or some settlement value at anytime

or from time to time. The elements may be disassembled, may each

be traded individually in their respective markets, may be kept

together and traded as is, or may be settled for some value).

However, Pritchard does not directly teach comparing a rate

of return of an asset within the dynamic security to a pre-

determined target rate of return. Wolfberg teaches a growth line

guaranteed minimum rate of return for an investment (see

Wolfberg Col. 5 Lns. 28-37) and a target amount or goal that a

client desires to reach (Wolfberg Col. 5 Lns. 18-26). Wolfberg

also teaches the comparing the two returns (Wolfberg Col. 11

Lns. 25-30, 40-55, and Col 12 Lns. 50-64). It would have been

obvious for one of ordinary skill in the arts to combine these

teachings for the purpose of processing data relating to

investment base, rates of return on investments, and target

investment amount (Wolfberg Col. 3 Lns. 63-67).

5.   As per claim 14, PRITCHARD teaches the method of claim 13.

PRITCHARD further teaches providing a notification when the rate

of return deviates at a pre-determined ratio from the target

rate of return (PRITCHARD Paragraph [0018], <u>generate reports</u> to
investors and/or brokers on the value of the trust and its
underlying investment instruments, on the <u>present</u> and <u>expected</u>
<u>return of the investment</u> and other information)

6.   As per claim 15, PRITCHARD teaches the method of claim 1.
PRITCHARD further teaches monitoring a rate of return of each of
the selected plurality of securities (PRITCHARD Paragraph
[0018], the financial data processing system may <u>monitor</u> the
performance of the <u>underlying investment instruments of the</u>
<u>trust</u>, as well as the trust itself, in order to generate reports
to investors and/or brokers on the value of the trust and its
underlying investment instruments, on the <u>present</u> and expected
<u>return of the investment</u> and other information)

7.   As per claim 16, PRITCHARD teaches the method of claim 15.
PRITCHARD further teaches the rate of return of each of the
selected securities to a pre-determined target rate of return
(PRITCHARD Paragraph [0018], the financial data processing
system may monitor the performance of the <u>underlying investment</u>
<u>instruments of the trust</u>, as well as the trust itself, in order
to generate reports to investors and/or brokers on the value of
the trust and its underlying investment instruments, on the
<u>present</u> and <u>expected</u> <u>return of the investment</u> and other
information)

8.   As per claim 17, PRITCHARD teaches the method of claim 16.
PRITCHARD further teaches providing a notification when the
value of a selected one of each of the selected plurality of
securities deviates at a pre-determined ratio from the target
rate of return (PRITCHARD Paragraph [0017], The financial
management system may provide a real-time update of all the
instruments which comprise the investment trust, and may
supervise, analyze and periodically report on the investment
activities associated with the trust)

9.   As per claim 18, PRITCHARD teaches the method of claim 15.
PRITCHARD further teaches implementing the method in an
electronic trading platform (PRITCHARD Paragraph [0038], system
may include financial data processing system, user device,
communications links, and computer network)

10. As per claim 21, PRITCHARD teaches the system of claim 19.
PRITCHARD further teaches means for trading the dynamic security
(PRITCHARD Paragraph [0045], Investment trust creation processor
may be utilized to form an investment trust that may be capable
of being traded on an exchange)

11. As per claim 22, PRITCHARD teaches the system of claim 19.
PRITCHARD further teaches means for trading at least one of the
selected plurality of securities separate from the dynamic
security (PRITCHARD Paragraph [0016], The value of the trust may

be redeemed by receiving underlying instruments in the trust, or

by receiving cash upon selling the underlying individual

investment instruments, the trust itself, or by reaching a

settlement value)

12.   As per claim 24 Pritchard teaches a system for creating and

trading a dynamic security comprising:

means for selecting a plurality of assets to form a

dynamic security, the plurality of assets chosen from two or

more of the categories (PRITCHARD Paragraph [0054]):

fixed income securities, stocks, futures contracts, options

contracts, other securities, non-security financial instruments,

real property leases, and collectibles (PRITCHARD Paragraph

[0045]);

the dynamic security being a financial interest whose value

tracks the sum of the values of the assets forming the dynamic

security (PRITCHARD Paragraph [0025]);

means for trading the asset within the dynamic security

based on the comparing (PRITCHARD Paragraph [0025]).

However, Pritchard does not directly teach means for

comparing a rate of return of an asset within the dynamic

security to a pre-determined target rate of return. Wolfberg

teaches a growth line guaranteed minimum rate of return for an

investment (see Wolfberg Col. 5 Lns. 28-37) and a target amount

or goal that a client desires to reach (Wolfberg Col. 5 Lns. 18-
26). Wolfberg also teaches the comparing the two returns
(Wolfberg Col. 11 Lns. 25-30, 40-55, and Col 12 Lns. 50-64). It
would have been obvious for one of ordinary skill in the arts to
combine these teachings for the purpose of processing data
relating to investment base, rates of return on investments, and
target investment amount (Wolfberg Col. 3 Lns. 63-67).

13.   As per claim 25, PRITCHARD teaches the system of claim 24.
PRITCHARD further teaches means for providing a notification
when the rate of return deviates at a pre-determined ratio from
the target rate of return (PRITCHARD Paragraph [0018], generate
reports to investors and/or brokers on the value of the trust
and its underlying investment instruments, on the present and
expected return of the investment and other information)

14.   As per claim 26, PRITCHARD teaches the system of claim 19.
PRITCHARD further teaches means for monitoring a rate of return
of each of the selected plurality of securities (PRITCHARD
Paragraph [0018], the financial data processing system may
monitor the performance of the underlying investment instruments
of the trust, as well as the trust itself, in order to generate
reports to investors and/or brokers on the value of the trust
and its underlying investment instruments, on the present and
expected return of the investment and other information)

15. As per claim 27, PRITCHARD teaches the system of claim 26. PRITCHARD further teaches means for comparing the rate of return to a pre-determined target rate of return (PRITCHARD Paragraph [0018], the financial data processing system may monitor the performance of the underlying investment instruments of the trust, as well as the trust itself, in order to generate reports to investors and/or brokers on the value of the trust and its underlying investment instruments, on the present and expected return of the investment and other information)

16. As per claim 28, PRITCHARD teaches the system of claim 27. PRITCHARD further teaches means for providing a notification when the value of a selected one of each of the selected plurality of securities deviates at a pre-determined ratio from the target rate of return (PRITCHARD Paragraph [0017], The financial management system may provide a real-time update of all the instruments which comprise the investment trust, and may supervise, analyze and periodically report on the investment activities associated with the trust)

17. As per claim 29, PRITCHARD teaches the system of claim 19. PRITCHARD further teaches means for implementing the system in an electronic trading platform (PRITCHARD Paragraph [0038], system may include financial data processing system, user device, communications links, and computer network)

18.   As per claim 42 Pritchard teaches a system for creating and

trading a dynamic security comprising:

a storage device, the storage device storing: a program for

controlling the processor; a list of assets (PRITCHARD Paragraph

[0049]);

a processor connected to the storage device the processor

operative with the program to: select a plurality of assets from

a list of assets to form a dynamic security from the selected

plurality of assets, the plurality of assets chosen from two or

more of the categories (PRITCHARD Paragraph [0046]): fixed

income securities, stocks, futures contracts, options contracts,

other securities, non-security financial instruments, real

property leases, and collectibles (PRITCHARD Paragraph [0045]);

the dynamic security being a financial interest whose value

tracks the sum of the values of the assets forming the dynamic

security (PRITCHARD Paragraph [0025]);

trade the asset within the dynamic security based on the

result of the compare (PRITCHARD Paragraph [0025]).

However, Pritchard does not directly teach comparing a rate

of return of an asset within the dynamic security to a pre-

determined target rate of return. Wolfberg teaches a growth line

guaranteed minimum rate of return for an investment (see

Wolfberg Col. 5 Lns. 28-37) and a target amount or goal that a

client desires to reach (Wolfberg Col. 5 Lns. 18-26). Wolfberg
also teaches the comparing the two returns (Wolfberg Col. 11
Lns. 25-30, 40-55, and Col 12 Lns. 50-64). It would have been
obvious for one of ordinary skill in the arts to combine these
teachings for the purpose of processing data relating to
investment base, rates of return on investments, and target
investment amount (Wolfberg Col. 3 Lns. 63-67).

19. As per claim 43, PRITCHARD teaches the system of claim 42.
PRITCHARD further teaches **the system is further configured to
allow providing a notification when the rate of return deviates
at a pre-determined ratio from the target rate of return**
(PRITCHARD Paragraph [0018], generate reports to investors
and/or brokers on the value of the trust and its underlying
investment instruments, on the present and expected return of
the investment and other information)

20. As per claim 44, PRITCHARD teaches the system of claim 30.
PRITCHARD further teaches **the system is further configured to
allow monitoring of a rate of return of each of the selected
plurality of securities.** (PRITCHARD Paragraph [0018], the
financial data processing system may monitor the performance of
the underlying investment instruments of the trust, as well as
the trust itself, in order to generate reports to investors
and/or brokers on the value of the trust and its underlying

investment instruments, on the <u>present</u> and expected <u>return of</u> <u>the investment</u> and other information)

21. As per claim 45, PRITCHARD teaches the system of claim 44. PRITCHARD further teaches **the system is further configured to allow comparing of the rate of return of each of the selected securities to a predetermined target rate of return** (PRITCHARD Paragraph [0018], the financial data processing system may monitor the performance of the <u>underlying investment instruments</u> <u>of the trust</u>, as well as the trust itself, in order to generate reports to investors and/or brokers on the value of the trust and its underlying investment instruments, on the <u>present</u> and <u>expected</u> <u>return of the investment</u> and other information)

22. As per claim 46, PRITCHARD teaches the system of claim 45. PRITCHARD further teaches **the system is further configured to allow providing a notification when the value of a selected one of each of the selected plurality of securities deviates at a pre-determined ratio from the target rate of return** (PRITCHARD Paragraph [0017], The financial management system may provide a real-time update of all the instruments which comprise the investment trust, and may supervise, analyze and periodically report on the investment activities associated with the trust)

23. As per claim 47, PRITCHARD teaches the system of claim 44. PRITCHARD further teaches **the system is further configured to**

allow implementing the system in an electronic trading platform

(PRITCHARD Paragraph [0038], system may include financial data

processing system, user device, communications links, and

computer network).

Response to Arguments

24. Applicant's arguments filed 10/04/2007 have been fully

considered but are moot in view of the new grounds of rejection.

Conclusion

A shortened statutory period for reply to this final action

is set to expire THREE MONTHS from the mailing date of this

action. In the event a first reply is filed within TWO MONTHS

of the mailing date of this final action and the advisory action

is not mailed until after the end of the THREE-MONTH shortened

statutory period, then the shortened statutory period will

expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated

from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than

SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier

communications from the examiner should be directed to CHUKS

ONYEZIA whose telephone number is (571)270-1372. The examiner
can normally be reached on Monday - Thursday 9am-5pm.

     If attempts to reach the examiner by telephone are
unsuccessful, the examiner's supervisor, Alexander Kalinowski
can be reached on 571-272-6771. The fax phone number for the
organization where this application or proceeding is assigned is
571-273-8300.

     Information regarding the status of an application may be
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access to the automated information system, call 800-786-9199
(IN USA OR CANADA) or 571-272-1000.

                                        /Alexander Kalinowski/
                                        Supervisory Patent
                                        Examiner, Art Unit 3691

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C. Onyezia 02/27/2008